



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 174832

PRELIMINARY RECITALS

Pursuant to a petition filed on June 7, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services regarding Medical Assistance (MA), a hearing was held on July 14, 2016, by telephone.

The issue for determination is whether petitioner is liable for an MA overpayment

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:
Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County.
2. Petitioner applied for healthcare and FoodShare benefits on April 7, 2015. On April 16, 2015, petitioner contacted the respondent, and an interview was completed for healthcare and

FoodShare benefits. Petitioner submitted employment verification to the respondent on April 18, 2015, and verification of petitioner's husband's medical leave on April 25, 2015.

3. On May 7, 2015, the respondent approved petitioner's household for healthcare and FoodShare benefits, and issued a notice on May 8, 2015. On September 18, 2015, petitioner was notified that her FoodShare benefits would end on September 30, 2015, and her healthcare benefits would remain unchanged.
4. The respondent was alerted to a wage discrepancy concerning petitioner's husband. The wage report established that petitioner's household income exceeded program limits in the third quarter of 2015.
5. On May 12, 2016, the respondent processed an overpayment of healthcare benefits for petitioner.
6. On May 13, 2016, the respondent sent petitioner a notice informing her that she was overpaid \$1,545.40 and \$2,362.73 in MA payments from September 1, 2015 through March 31, 2016, claim nos. [REDACTED], respectively.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:...

2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

As of April 1, 2014 all childless adults became eligible for BC+ but with an income limit of 100% of the Federal Poverty Level, and adults with minor children were eligible according to their income. See Wis. Stat., §49.471(4)(a)4, and the MA Handbook, Appendix 50.1 for the current income limits. Thus when petitioner's income rose above the program limit she lost BC+ eligibility.

Although I am sympathetic to petitioner's situation, I must uphold the overpayment. Petitioner applied for health care and FoodShare. She received benefits and was provided with regular notices of her benefits. The petitioner testified that she was not in contact with the respondent after September, since her FoodShare had been terminated, and she did not know that she had healthcare coverage.

The failure to report changes does not have to be intentional or fraudulent. Because petitioner did not follow up on her BC+ eligibility, she mistakenly did not know that she became eligible and that she needed to report the increase in income. The result, however, mistaken, was that the state MA program

paid almost \$4,000 in BC+ benefits on petitioner's behalf for which petitioner was ineligible. Under the clear language of the statute, the agency is obligated to seek recovery of those payments.

CONCLUSIONS OF LAW

The agency correctly seeks recovery of an MA overpayment because petitioner did not report an increase in household income after she was determined to be eligible for BC+.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 25th day of August, 2016

\s_____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 25, 2016.

La Crosse County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability